



UNITED STATES DEPARTMENT OF COMMERCE  
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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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07/995,345 12/22/92 OPPERMANN

H STK-001CP2DV

NUTTER, N EXAMINER

15M1/0611

PATENT ADMINISTRATOR  
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BOSTON, MA 02109

ART UNIT	PAPER NUMBER
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1503

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DATE MAILED: 06/11/93

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.                | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948.                   |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449, <u>4</u> | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.         | 6. <input type="checkbox"/> _____  |

Part II SUMMARY OF ACTION

1. ☒ Claims 22-26, 28, 29, 34, 35, 45, 50, 51, 81, 82, 85, 86 and 96 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2. ☒ Claims 1-21, 27, 30-33, 36-44, 46-49, 52-80, 83, 84, 87-95 have been cancelled.

3. ☐ Claims \_\_\_\_\_ are allowed.

4. ☒ Claims 22-26, 28, 29, 34, 35, 45, 50, 51, 81, 82, 85, 86 and 96 are rejected.

5. ☐ Claims \_\_\_\_\_ are objected to.

6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Serial No. 07/995,345

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Art Unit 1503

Claims 22-26, 28, 29, 34, 35, 45, 50, 51, 81, 82, 85, 86 and 96 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites that the amino acid sequence is "sufficiently duplicative of the sequence of COP-5 or COP-7". The term "sufficiently" is deemed to be vague since the metes and bounds of the claims cannot be clearly ascertained. The term is subjective as opposed to objective. Furthermore, with regards to the recitation that the sequence is "duplicative of the sequence of COP-5 or COP-7", it is noted to applicants that while not formalized into a rule, there is a long-standing policy and practice in the office that a claim should be self-contained to the extent possible to fulfill the statutory requirement of particularly pointing out and distinctly claiming what applicant regards as his invention. This practice facilitates examination of the claimed invention by having the subject matter all in one place, avoids complicating the examination process by adding the processing of drawings and possible correction thereof to the office procedures, and permits the claimed subject matter to be easily modified without possible correction of drawings or specification and potential modification of the scope of the disclosure as originally filed. The long standing practice also

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Art Unit 1503

serves the public by placing the claimed subject matter in one location without having to refer back and forth to at least two different places.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 85 and 86 are rejected under 35 U.S.C. § 102(e) as being clearly anticipated by Wang ('649), cited by applicants.

Any inquiry concerning this communication should be directed to Nathan M. Nutter at telephone number (703) 308-2351.



Nathan M. Nutter:cb  
June 03, 1993  
June 10, 1993

NATHAN M. NUTTER  
PATENT EXAMINER  
ART UNIT 153

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